

Ravalli County Planning Department
215 S. 4th Street
Hamilton MT 59840

July 9, 2008

Dear Ms. Morrell and Planning Staff:

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Ravalli County Commissioners

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The Clark Fork Coalition appreciates the opportunity to comment on Ravalli County's Draft Streamside Protection Regulation (SPR). First, let us applaud your effort. We believe the SPR represents a thorough and thoughtful attempt to bring greater protections to the waterways and adjacent lands of Ravalli County, ultimately protecting the health and welfare of residents and our natural resources.

The stream designations are inclusive and well-categorized. The 250' baseline that triggers the compliance permit process is of particular appeal. We see this as an innovative way to review all new construction in critical areas adjacent to the County's waterways. While the allowable and prohibited uses in the "setback" have yet to be drafted, we believe that utilizing both a buffer and a setback ensures comprehensive streamside protections. However, the Coalition is somewhat unclear as to how the setback will differ from the buffer. In addition, a few of the allowed uses within the buffer seem more appropriately applied to the setback, such as temporary structures and fencing.

Regarding the agricultural activities described in the SPR, we believe that elaboration in two particular instances is necessary. First, in § 1.4 INTENT AND SCOPE, "all legal activities normally associated with agriculture" could be open to interpretation. We recommend either removing the term "normally" or expanding on what those activities encompass would be beneficial. Secondly, in § 3, p. 9, under the heading Agricultural Uses, we believe the term "agricultural structures" should be defined.

The Coalition also urges review of several allowable activities within the buffer. First, within § 1.8, DEFINITIONS, we believe the definition for "buffer" should be modified to state specifically that a buffer consists of native vegetation.. In § 3, p. 10, under Vegetation, the "allowable" removal of vegetation is somewhat vague. What exactly is "reasonable" vegetation removal? We realize that this section is qualified by § 4, p. 11, Removal of Vegetation. However, while the latter definition is more expansive, it references § 3 and thus "reasonable" removal. Defined parameters on vegetation removal could be helpful. We believe that allowing fencing in the buffer, as set out in §3, p.10, could significantly impair the goals of streamside protections, namely wildlife habitat connectivity. Although we realize the "setback" section has yet to be drafted, the Coalition believes that the setback is a more appropriate location for fencing and temporary structures. In addition, the 90-day exemption on temporary structures in the buffer could significantly compromise the buffer's integrity. Moreover, enforcement of this exemption will likely be difficult.

The Coalition supports both the variance criteria and mitigation options in the SPR. Allowing the Board of Adjustment to require mitigation will go a long way toward balancing the impacts of new construction near waterways. However, we believe several sections deserve further review. First, the treatment of rights and privileges of land ownership as discussed in § 6(1)(h-i), p. 11 could lead to confusion, as these privileges will inevitably be adjusted through this regulation. Within a common area, all properties may not enjoy the same rights, depending on each property's orientation to streams and waterways. The language in these variance provisions could serve to weaken or diffuse the effectiveness and applicability of the SPR.

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The mitigation options set out in § 6(2)(a), p. 11-12, which allow treatments for slope stabilization and erosion prevention, could also compromise the goals of the SPR. The specific instances and circumstances warranting this mitigation option should be identified to best protect streamside habitat. Secondly, §6(2)(d) allows for the creation of new riparian or wetland areas to replace the areas affected by a variance. What standards will be utilized to govern riparian and wetland mitigation? While this practice has been adopted in numerous locales, its effectiveness is quite controversial. If the SPR will ultimately contain this mitigation option—which we do believe is an effective tool, nor necessary for this regulation—carefully crafted standards should be included.

Lastly, at the beginning of §§ 1.6, 6, and 7, the Coalition is concerned that the introductory paragraph qualifying the applicability of these SPR sections could compromise the integrity of the regulation. This introductory, or “placeholder” paragraph, is confusing and potentially detrimental to the regulation’s long-term enforceability. Furthermore, this paragraph seems unnecessary given the conflict provision in § 7(8). How would the SPR provisions change under a future countywide zoning ordinance – would they be weakened? The Coalition encourages careful consideration of how to best ensure this SPR remains applicable in its entirety once countywide zoning is adopted.

In conclusion, the general provisions and protections set out in the SPR are comprehensive and effective. We urge Ravalli County Planning Department and Commissioners to ensure they remain fully enforceable under the countywide zoning ordinance to best maintain the valley’s water resources.

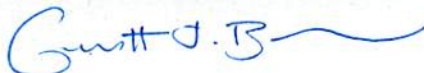
The Coalition fully supports Ravalli County’s efforts to protect the Bitterroot’s celebrated rivers and streams, which are integral to the health of the entire Clark Fork watershed. We also would like to thank the Streamside Setback Committee for their important and collaborative work in drafting the SPR, and the Ravalli County Commissioners for encouraging this effort. We look forward to the next steps in implementing these streamside protections, which can serve as a model through the basin and the region.

Please feel free to call with any questions on the above recommendations. Thank you for your time, and your commitment to the health of our rivers and communities.

Best regards,



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Cc: Ravalli County Commissioners
Streamside Setback Committee